

BEST AVAILABLE COPY

Application No. 10/078,497

REMARKS

Applicant has carefully studied the outstanding Official Action mailed on September 16, 2003. This response is intended to be fully responsive to all points of rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Applicant wishes to express his gratitude to the Examiner for the courtesy of a telephone interview with Applicant's representative David Klein, Patent Agent Reg. No. 41,118, on May 18, 2004. During the interview, Applicant's representative pointed out that all of the art of record, and in particular, Donnely et al. (US 5427809), is directed to extruded products which by the very nature of extrusion cannot possibly be spherical, unlike the instant invention which is not extruded and is generally spherical. Agreement, however, was not reached.

Claims 1 and 12 stand rejected under 35 USC §112, first paragraph, for the original specification not containing the wording "non-extruded".

Claim 12 stands rejected under 35 USC §102(b) as being anticipated by Donnely et al. (US Patent 5,945,144).

Claims 1-11 stand rejected under 35 USC §103(a) as being unpatentable over Donnely et al. in view of the recipes for pasta in the Miami Herald by Linda Cicero and Toh.

Claims 1-12 have been canceled as explained hereinbelow.

Claim 13 stands rejected under 35 USC §103(a) as being unpatentable over Donnely et al. Examiner states "The conventional process disclosed in Donnely et al. does not teach making maftul. It would have been obvious to one skilled in the art to substitute flour for semolina when desiring to make other pasta product such as maftul. Applicant discloses that it is known maftul only differs from couscous in the type of flour. Thus, it would have been obvious to make maftul in the process discussed in the Donnely reference by substituting flour for semolina."

Applicant respectfully notes that the assertion that it "would have been obvious to one skilled in the art to substitute flour for semolina when desiring to make other pasta product such as maftul" amounts to the Examiner not accepting or believing what is already stated in the background of the instant invention: "However, since maftul is made from flour, which behaves differently from semolina, it has been found that the method used for making instant couscous cannot be applied to making instant maftul."

Accordingly, in response to the §103 rejection of claim 13, Applicant herewith submits a declaration under 37 CFR §1.132, and in accordance with MPEP 716, explaining

Application No. 10/078,497

in detail why the method (particularly that mentioned in Donnelly et al.) used for making instant couscous cannot be applied to making instant maftul. Donnelly et al. is silent about sifting the semolina prior to blending with water and places no importance on this sifting. In contrast to the prior art, the declaration quotes the inventor, Mr. Avi Chriqui, who has found that proper sifting of the flour, using a different size sieve than that used for sifting semolina, makes a significant difference in making instant maftul. In the preparation of instant couscous, a No. 20 sieve is used to sift the semolina. Sifting flour using a No. 20 sieve produces sticky, pasty maftul with very little airiness and no traditional mouthfeel. Instead, using approximately a No. 40 sieve produces maftul with the desired airiness and traditional mouthfeel.

The claims have been amended so that the declaration refers to the claims as required, namely claims 1-12 have been canceled and claim 13 has been put in independent form and is directed solely to maftul made by sifting with approximately a No. 40 sieve, which is language taken from the original claim 5 and does not add new matter.

Accordingly, it is respectfully submitted that claim 13 is novel and unobvious over the prior art, and is deemed to be in a condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
DEKEL PATENT LTD.

BY David Klein

David Klein, Patent Agent
Reg. No. 41,118
Tel 972-8-949-5334
Fax 972-949-5323

E-mail: dekeltld@netvision.net.il

**Certificate of Facsimile Transmission under 37
C.F.R. 1.6(d)**

I hereby certify that this correspondence is being transmitted by facsimile to 703-872-9306 at the United States Patent and Trademark Office on July 19, 2004.

David Klein, Reg. No. 41,118

(Name of Applicant's Representative)

David Klein
(Signature)